HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.25611 of 1999

Dated 20th day of June, 2007

Between:

Mallipeddi Rajamma ..
Petitioner

And

The Govt. of A.P., rep. by
Its Secretary, Social Welfare Dept.,
Secretariat Buildings, Hyderabad
and four others ..
Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the Notification dated 19.1.1999 under Section 4(1) of the Land Acquisition Act, 1894 (for brevity "the Act") and Draft Declaration dated 22.1.1999 issued by the 2nd respondent-District Collector, proposing to acquire an extent of Ac.2.62 cents of land in S.No.2/3 situated in Pedalanka village, as arbitrary and illegal.

The petitioner asserts that her husband Vijaya Ramaiah took the land of an extent of Ac.2.62 cents situated in Peddalanka village, Bhatiprolu Mandal, Guntur District on lease from the 5th respondent on 7.9.1961, and the lease was extended from time to time, and she has been in possession and enjoyment of it and paying the rents regularly to the Government. When her husband died in the year 1988, the petitioner made a representation to the respondents-authorities, who recognized her as a cultivating tenant. Now, her grievance is that the 2nd respondent, without serving any notice to her under Sections 9 and 10 of the Act, issued the Notification dated 19.1.1999 proposing to acquire the land in question.

When the writ petition came up for admission, this Court, while ordering Rule Nisi, directed the respondents not to dispossess the petitioner from the land in question until further orders. Thereafter, when the respondents came forward with a petition to vacate the stay order, another learned Judge, after hearing both the counsel, observed that as the possession of the land was taken, there is no need to vacate the interim stay and thus dismissed the stay application by an order dated 3.8.2000.

A counter affidavit is filed wherein it is nowhere stated whether any Award was passed or not.

Hence, this Court is of the view that as is evident from the counter affidavit that no Award was passed under Section 11-A of the Act within a period of two years from the date of publication of Draft Declaration, the entire proceedings get lapsed. In the instant case, Notification was issued on 19.1.1999 and the Draft Declaration was issued on 22.1.1999 and this Court never granted any interim stay of all further proceedings which means that this Court specifically wanted the Land Acquisition Officer and others to proceed further in accordance with the provisions of the Act. In spite of the said order, as no Award has been passed till date, it is clear that the action of the respondents is hit by Section 11-A of the Act.

In the result, this writ petition is allowed setting aside the impugned Notification dated 19.1.1999 and Draft Declaration dated 22.1.1999 issued by the 2nd respondent. However, if the respondents so choose to acquire the land in question for a public purpose, they may do so by issuing a fresh Notification as contemplated under the Act. No costs.

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20.06.2007

bcj